

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

HERBERT ELWOOD GILLILAND, III,

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Plaintiff,

VS.

CIVIL ACTION NO.

CHAD HURLEY AND STEVE CHEN

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## Defendants

## NOTICE OF REMOVAL

Defendants Chad Hurley and Steve Chen (the “Defendants”) hereby remove this action from the Court of Common Pleas of Allegheny County, Pennsylvania, pursuant to 28 U.S.C. § 1441. In support thereof, Defendants aver as follows:

1. On or about November 13, 2009, Plaintiff Herbert Elwood Gilliland, III commenced this action by filing a Complaint in the Court of Common Pleas of Allegheny County, Pennsylvania, Civil Action No. GD 09-021018.

2. The Complaint and “Plaintiff’s First Interrogatory and Requests for Production of Documents” (the “Discovery Request”) were directed to Defendants via certified mail on November 16, 2009. Defendants received the Complaint and Discovery Request on November 19, 2009. The Complaint and Discovery Request, which are attached hereto as Exhibit A, are the only process, pleadings and orders served on Defendants in this action.

3. Plaintiff Herbert Elwood Gilliland, III alleges that he is a citizen of the Commonwealth of Pennsylvania, residing in Allegheny County, Pennsylvania. (Compl., ¶ 1).

4. Defendants, as the Complaint correctly alleges, are citizens of the State of California. (Compl., ¶¶ 2-3).

5. Plaintiff's Complaint purports to assert claims against Defendants for breach of contract and fraudulent misrepresentation and seeks damages in excess of \$16 million, plus punitive damages (Compl., ¶¶ 5, 9-10).

6. As a result of the complete diversity of citizenship of the parties to this action, and the satisfaction of the amount in controversy threshold, this Court would have original subject matter jurisdiction over this action under 28 U.S.C. § 1332 if the action had originally been filed in federal court. Removal therefore is appropriate under 28 U.S.C. § 1441(a).

7. Removal of this case based on diversity of citizenship is not precluded by 28 U.S.C. § 1441(b) because none of the parties in interest properly joined and served as defendants is a citizen of the Commonwealth of Pennsylvania, the state in which the action was brought.

8. This Notice of Removal is timely, as it has been filed less than thirty (30) days after receipt of the Complaint by Defendants. *See* 28 U.S.C. § 1446(b).

9. Venue is proper under 28 U.S.C. § 1441(a) because the United States District Court for the Western District of Pennsylvania is the federal district embracing the Court of Common Pleas of Allegheny County, Pennsylvania.

10. Pursuant to 28 U.S.C. § 1446(d), a Notice of Filing Notice of Removal is being filed with the Court of Common Pleas of Allegheny County, Pennsylvania, contemporaneously with the filing of this Notice of Removal. A copy of the Notice of Filing Notice of Removal is attached hereto as Exhibit B.

11. A copy of this Notice will be served upon Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendants Chad Hurley and Steve Chen hereby remove this action from the Court of Common Pleas of Allegheny County, Pennsylvania, to the United States District Court for the Western District of Pennsylvania.

Dated: December 9, 2009

/s/ Ralph A. Finizio

Ralph A. Finizio (PA 39560)  
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*Attorneys for Defendants Chad Hurley and  
Steve Chen*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Notice of Removal via certified United States Mail, return receipt requested, and First-Class United States Mail, postage prepaid, on November 9, 2009, upon the following::

Herbert Elwood Gilliland, III (*pro se*)  
209 Western Avenue # 3  
Pittsburgh, PA 15215

/s/ Ralph A. Finizio  
Ralph A. Finizio